

# NEW HAMPSHIRE BOARD OF MEDICINE

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## NEWS

August 2000

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### Supreme Court Ruling Broadens "Duty to Warn"

Under New Hampshire RSA 329:31, physicians have a duty to warn a potential specific or reasonably identifiable victim of physical harm threatened by any patient. In the past, this duty has been applied in practice to third parties outside of the medical profession.

The New Hampshire Supreme Court recently broadened this "Duty to Warn" to inform caregivers where patients demonstrate erratic behavior that could result in harm to such caregivers. In this particular case, a phlebotomist was attacked by a patient who was known to strike out at caregivers from time to time, and both the hospital and the primary physician were found responsible for failing to warn of the patient's behavior. Physicians are encouraged to read the Court's decision, No. 97-860, Powell v CMC, on the NH Supreme Court website:

[www.state.nh.us/courts/supreme/opinions](http://www.state.nh.us/courts/supreme/opinions). You can also call the Board of Medicine for a copy of the decision.



### Does Your Hospital Comply with Legal Reporting Requirements?

New Hampshire RSA 329:17 IV requires every hospital, clinic or other health care facility within the (continued page 2)

### URGENT!

#### Notice to All Physicians Licensed in New Hampshire

License renewal was due on June 30, 2000. If you have not renewed your license, you should not be practicing medicine. Contact the Board immediately at (603) 271-6934.

Late renewal will be available until September 30, 2000 provided all requirements are met, however, applicants for late renewal will have to pay an additional late payment fee of \$100.00.

Licensees who fail to renew by September 30, 2000 must reinstate their license.



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## NH Board of Medicine News

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State to report to the Board of Medicine any adverse action on a physician's license, including situations in which allegations of misconduct are settled by voluntary resignation without adverse action, within 30 days after such action is taken. Unlike federal law, which permits voluntary reporting, New Hampshire law mandates reports from hospitals.

This means hospitals must report any disciplinary action taken against any doctor that affects his /her ability to practice medicine, even if only for portion of a day. The reporting requirement applies regardless of the doctor's employment status with the hospital.

Hospitals and clinics have a responsibility to work with the Board to help assure that patients are afforded appropriate and ethical care. Make sure your hospital complies with the reporting requirement as part of its corporate compliance program. If you have any questions, please call Suzanne Amidon at the Board of Medicine.

### ABOUT THE BOARD

Governor Jeanne Shaheen has appointed James Clifford, MD of Lee, NH to fill the vacancy on the Board of Medicine in December, 1999. Dr. Clifford is board certified in family practice and practices at the Laconia Family Clinic. The Governor reappointed Dr. James Sise to

the Board in April, 2000 to a five year term.

Suzanne Amidon, JD, a Concord Attorney with over 13 years experience in health care law has been appointed administrator for the Board of Medicine. She is a graduate of the University of Vermont where she was elected Phi Beta Kappa. Ms. Amidon received her JD at George Washington University Law Center. She began her work with the Board on June 21 and will work closely with the board on all matters related to its mission.

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NH Board of Medicine News  
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### Board Members

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Cynthia Cooper, MD  
VicePresident, Dover

Wassfy Hanna, MD Rye

Bruce Friedman, MD Lebanon

James Sise, MD Keene

James Clifford, MD Laconia

Kevin Costin, PA-C Manchester

Jean Barnes, Public Member

### DISCIPLINARY ACTIONS

The Board took the following final disciplinary actions from August 1999 to the present.

Robert H. Arbuckle, M.D.  
License #: 5735 Laconia, NH  
8/5/99 - Emergency  
Suspension - Temporary  
suspension pending a hearing  
on whether permanent  
disciplinary sanctions should be  
imposed. 9/7/99 - Consent  
Decree - Effective 9/4/99  
license reinstated. Must  
participate in the New  
Hampshire Physician Health  
Program administered by the  
New Hampshire Medical  
Society.

Mark Logan, M.D. License  
#: RT 815 Lebanon, NH  
9/23/99 - Order of Conditional  
Approval - Granted a training  
license that allows him to  
practice only as a Medical  
Resident in the Pathology  
Residency Program on the main  
campus of the Dartmouth-  
Hitchcock Medical Center,  
Lebanon.

Sankar N. Banerjee, M.D.  
License #: 8871 Nashua, NH  
9/24/99 - Order of Revocation  
- License revoked effective  
9/2/99 for providing the Board  
with inaccurate and incorrect  
information on his 1999 license  
renewal application.



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**Bijoy L. Kundu, M.D.**  
License #: 5387 Manchester, NH 10/08/99 - Settlement Agreement - Fourteen-month suspension, all but 60 days stayed, minus the three weeks already served. One thousand-dollar fine. Implement practice management policies, training and education in proper billing and medical record documentation.

**Mark N. Strecker, M.D.**  
License #: 8649 Nashua, NH 10/26/99 - Decision and Order - License suspended for 36 months with 24 months stayed for professional misconduct by engaging in sexual contact with a female patient.

**Philip S. Horner, M.D.**  
License #: 9248 Barrington, NH 10/26/99 - Stipulation as to Voluntary Temporary Surrender of Medical License - Voluntarily surrendered his license in lieu of the Board seeking an Order of Emergency Suspension until at least April 30, 2000. Voluntary Surrender of License on 6/2000 in lieu of the Board pursuing disciplinary action.

**John A. Savoy, M.D.** License #: 7695 Lebanon, NH 11/12/99 - Settlement Agreement - Reprimand for providing privileged medical information to a patient's employer.

**Jens Lauridsen, M.D.**  
License #: NA Andover, MA 3/10/00 - Order. Locum Tenens License denied. Does not meet requirements.

**Roy A. Hepner, M.D.**  
License #: 8082 Somersworth, NH 12/3/99 Settlement Agreement - Reprimand and five hundred-dollar fine for professional misconduct in the treatment of four patients.

**John S. Mitchell, M.D.**  
License #: 7446 Salem, NH 1/7/00 - Settlement Agreement - Reprimand for boundary violation with a patient.



**Benjamin Weinberg, M.D.**  
License #: 10837 Springfield, MA 1/14/00 - Order of Conditional Approval. License granted with restrictions to include monitoring of substance abuse.

**Harry L. Bush, M.D.** License #: NA Hasting-on-Hudson, NY 2/17/00 - Order of Conditional Denial. License denied based on action taken by the New York Board.

**Jonathan M. Ross, M.D.**  
License #: 6679 Lebanon, NH 4/7/00 - Settlement Agreement. License suspended for 6 months with a \$5,000 fine for unprofessional conduct.

**Paul Weinstein, M.D.**  
License #: 10850 North Andover, MA 3/10/00 - Order. License granted with restrictions to include a monitoring of medical practice for 12 months. He may not practice medicine in an emergency room setting until he is re-certified by the American Board of Emergency Medicine.

**Carl S. Giffin, M.D.** License #: 10851 Exeter, NH 3/10/00 - Order of Conditional Approval. License approved with the condition Dr. Giffin pass the American Board of Preventive Medicine prior to March 1, 2001.

**Lynn T. Shepler, M.D.**  
License #: NA Goffstown, NH 4/11/00 - Order of Denial. Locum Tenens Application denied based on failure to appear at a hearing being held at her request, based on an Order to Show Cause issued by the Board on 1/14/00.

**Peter D. Lundquist, M.D.**  
License #: 9164 Nashua, NH 6/16/00 - Settlement the. Agreement. Reprimand and ten hours of CMEs for alleged failure to adhere to appropriate

standard of care in treatment of one patient

**William S. Grass, MD,**  
License #:10982, 8/2/00-  
Order of Conditional Approval  
subject to supervision and  
reporting of prescription orders  
for controlled substances.

**Albert M. Ghassemian, MD,**  
License #:9770 July 24, 2000-  
Order for Temporary  
Suspension for demonstrating  
conduct representing an  
immediate threat to health and  
safety

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### Legislative Update

While education funding and the state budget dominated most of the publicized Legislation action in the past session, the Governor signed into law several bills of particular interest to physicians. The first two bills mentioned below refer to payment or contract provisions; the second two bills have impact on the practice of medicine in New Hampshire.

The legislature enacted a bill to assure prompt payment of medical insurers and by the Department of Health and Human Services (**Chapter Law 274, effective January 1, 2001**). The law requires payors to pay claims for services within 45 days for a clean paper claim and within 15 days for a clean electronic claim. Late payment

has been disruptive to many small group practices, and this new law will generate not only prompt payment but good will between providers and payors.

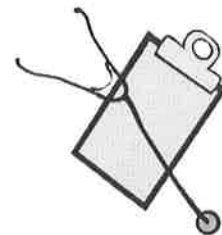
Other legislation of interest is **Chapter Law 206**, which prohibits any insurer from using a "most favored nation" provision in its contracts with providers. MFN clauses have been used to give the insurer the benefit of low fee schedules offered by providers to other carriers, and this new law makes insistence on such provisions an unfair trade practice as of January 1, 2001.

**Chapter Law 268** allows physicians to use controlled substances for pain management provided that the physician, using his/her professional judgement, determines that the benefit of expected relief outweighs the risk of the high dose. The law allows this even if the use of such substance may increase the risk of death—so long as the purpose of using the drug is not to cause death. The law's effective date is 8/1/2000. The Board issued guidelines in May to all licensees. If you would like a copy, please call the Board.

Two bills related to the practice of medicine were referred to interim study. **HB 335**, would permit physicians to make a report when a person is unfit to

drive. Physicians making such reports in good faith would be given civil immunity from any suits brought by reported patients. These reports would be considered an exception to the patient-physician rules on confidentiality.

Finally, **HB 1437** was referred to interim study. **HB 1437** would create a system of licensure for practitioners of ayurvedic medicine, delineate the scope of permitted practices, establish an ayurvedic board of examiners, and permit such practitioners to call themselves "physicians" or to use "M.D." in connection with their professional title. A full copy of the bill can be viewed on the state website at [www.nh.state.us](http://www.nh.state.us), under the Legislature heading. The Board of Medicine will closely monitor the status of this proposal.



### Health Care Summit

The New Hampshire Medical Society is sponsoring a Health Care Summit for Friday and Saturday, September 8-9, at the Hopkins Center and Hanover Inn in Hanover NH.

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The Program will include U.S. Surgeon General David Satcher, MD, President of the Canadian Medical Association, Dr. Hugh Scully, and NH's Governor Jeanne Shaheen.

Also speaking will be Donald Shumway, Commission of the Department of Health and Human Services, NH Insurance Commissioner Paula Rogers, and NH Senate President Beverly Hollingworth.

Cost is \$100 for members of the NH Medical Society, and \$150 for nonmembers. If you require additional information, call the Medical Society at (603) 224-1909.

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### AG Seeks Volunteers

The NH Attorney General's Office, Consumer Protection Bureau, is accepting applications for volunteers to work as Consumer Affairs Specialists in the Consumer Protection Bureau's Mediation Program.

Volunteers are requested to commit up to six hours per week for one year assisting in the resolution of consumer complaints. Training is provided.

For more information, call (603) 271-3643 to request a program

description and an application form.

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### Only Practitioners Licensed to Practice Medicine May Use Lasers

Once again, the Board of Medicine reminds doctors that under NH law, only persons licensed to practice medicine may conduct any procedure on another person using a laser.

The FDA licenses and approves all medical devices, and has ruled that devices marketed for laser hair removal are Laser Instruments. As such, the use of such instruments is restricted in this state to persons licensed to practice medicine.

If you have any questions, please call our Concord office.



### Reminder for Licensed Residents and Graduate Fellows

To issue a license as a graduate student or resident in the State of New Hampshire, the Board

of Medicine must receive certification directly from the National Board of Medical Examiners (NBME) that the applicant has passed USMLE Steps 1 and 2.

To avoid unnecessary delays in your license processing, be sure to arrange for the certification to be sent directly to the Board of Medicine.

### NH to Train MD's on Domestic Violence Screening

Governor Jeanne Shaheen initiated a program to train doctors and other health care professionals to screen patients for domestic violence on confidential intake forms.

Dartmouth Medical School, Notre Dame College and New Hampshire nursing schools have agreed to include domestic violence screening into their curriculum.

Under the screening program, if domestic violence is indicated, the patient will be referred to appropriate social services.

For more information, call the New Hampshire Coalition Against Domestic and Sexual Violence at 224-8893.